

THE HONORABLE BARBARA J. ROTHSTEIN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AKIMOTO & ZHU, DDS, MSD, PLLC;
BRET JACOBSON, DDS; CAROL
O'BRIEN DDS PS, INC; DAVID Y. KIM,
DDS; FOUAD FARHAT, DDS, MSD,
PLLC; GRAHAM JONES, DDS; GREENE
AND EVERETT, PLLC; JENSEN AND
BROWN, DDS, PLLC.; JESSIE M. BANKS,
DDS AND JESSIE M. BANKS, DDS PLLC;
KUNAL WALIA, DDS; JEFFERY AND
DAVIES DDS, PLLC; PATRICIA G.
BENCA, DDS; PAUL R. SAUVAGE, DDS;
THERON BAKER DDS; ROSETO &
NGUYEN, PLLC; JOHANN YI DDS PLLC;
JOSH WALKER, DDS & STEVEN INABA
DDS, PLLC d.b.a. MERIDIAN DENTAL
CLINIC; AMATO PLLC; MATTHEW A.
BAGNULO, DDS, PS; ZACHARY P.
EHRMANTROUT, DDS; and
RESTAURANTS NORTHWEST, INC.,

Plaintiffs,

v.

TRAVELERS CASUALTY INSURANCE
COMPANY OF AMERICA, an insurance
company; and THE CHARTER OAK FIRE
INSURANCE COMPANY, an insurance
company,

Defendants.

No. 2:22-cv-00644-BJR

JOINT MOTION TO STAY AND ORDER

1 Plaintiffs and Defendants submit this Joint Motion to Stay this case pending appellate
 2 decision(s). The parties agree that the case should be stayed but disagree regarding the
 3 appropriate length of a stay. Assuming the Court agrees that a stay is appropriate, the parties
 4 leave the length of the stay to be determined by the Court.

5 The Washington Supreme Court and the United States Court of Appeals for the Ninth
 6 Circuit are in the process of deciding appeals involving the application of Washington law to
 7 disputes over insurance coverage for alleged business interruption losses attributed to
 8 COVID-19 and/or government closure orders. In the Washington Supreme Court, *Hill &*
 9 *Stout PLLC v. Mutual of Enumclaw Insurance Co.*, No. 100211-4 (Wash.) (“*Hill & Stout*”) is
 10 fully briefed and scheduled for oral argument on June 28, 2022. In the Ninth Circuit, *Nguyen*
 11 *v. Travelers Casualty Insurance Company of America*, No. 21-35496 (9th Cir.) and twelve
 12 related cases are fully briefed and scheduled for oral argument on August 10 or 12, 2022. An
 13 appellate decision in any of these cases is likely to impact central legal questions in this case.

14 The parties disagree as to the length of the appropriate stay. Plaintiffs believe that this
 15 case should remain stayed until a decision is issued by the Washington Supreme Court in
 16 *Hill & Stout*, regardless of the timing of any decision by the Ninth Circuit. Defendants
 17 believe that this case should remain stayed until a decision is issued in either *Hill & Stout* or
 18 *Nguyen* (or any of the cases to be heard by the Ninth Circuit together with *Nugyen*),
 19 whichever comes first.

20 The parties expressly agree that this joint motion and proposed stay do not waive any
 21 rights or defenses, including but not limited to defenses listed in Federal Rule of Civil
 22 Procedure 12(b) or 12(c). The parties further agree to file a Status Report within sixty (60)
 23 days of any appellate decision to provide the Court with an update on the case status.

Dated: June 15, 2022.

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*Attorney for Plaintiff Restaurants
Northwest, Inc.*

IT IS SO ORDERED this 24th day of June, 2022.



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4885-4471-1967.1